

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No.: 22-80208-Cr-Cannon/Reinhart

UNITED STATES OF AMERICA,

v.

DANIEL CLARK,

Defendant.

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**REPORT AND RECOMMENDATION**  
**FOLLOWING CHANGE OF PLEA HEARING**

THIS CAUSE is before the Court upon Order of Reference from United States District Judge Aileen M. Cannon. A change of plea hearing was held on 4/26/2023, which was attended by the Defendant, his counsel Larry Donald Murrell, and Assistant United States Attorney Daniel Funk.

1. The Court found the Defendant competent to proceed with a change of plea colloquy.

2. The Court advised the Defendant of the right to have the hearing conducted by the presiding United States District Judge assigned to the case. The Court further advised the Defendant that, regardless of who conducted the plea hearing, the sentence would be imposed by the presiding United States District Judge, who would make all findings and rulings regarding such sentence and would conduct a sentencing hearing. The Defendant and the Government consented to the undersigned judge conducting the change of plea hearing.

3. The Court then conducted a plea colloquy in accordance with the outline set forth in the Benchbook for U.S. District Judges and in conformity with the requirements of Federal Rule of Criminal Procedure 11.

4. A written plea agreement has been entered into by the parties and made part of the record. This Court reviewed the plea agreement and had the Defendant acknowledge signing the plea agreement. This Court also advised the Defendant of the statutory maximum penalties and any minimum mandatory and maximum sentences which could be imposed in this case.

5. The Defendant acknowledged being fully satisfied with the services of his attorney and that he had full opportunity to discuss all facets of his case with his attorney – including the discovery, potential defenses, and potential motions to suppress.

6. The Defendant pled guilty to the sole Count of the Superseding Information, which charges the defendant with conspiracy to possess with intent to distribute 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B)(viii) and 846.

7. The Court also found that the Defendant knowingly, voluntarily, and intelligently waived any 8<sup>th</sup> Amendment claim that the forfeiture of his assets would be an excessive fine.

8. The parties submitted an agreed written factual basis for the plea, which was signed by the Defendant, his counsel, and the Government. This factual

proffer includes all of the essential elements of the offense to which the Defendant pled guilty. The written factual basis was made part of the record. The Government orally summarized the factual basis for the plea on the record, including the essential elements of each offense. Defendant acknowledged that he signed the factual proffer and that all the statements contained therein are true.

9. Defendant has been referred to the United States Probation Office for the preparation of a pre-sentence investigation report. The sentencing hearing will be conducted at a time scheduled by separate order by the United States District Judge.

Accordingly, based upon the foregoing and the plea colloquy conducted by this Court, the undersigned RECOMMENDS that the Defendant, DANIEL CLARK, (1) be found to have freely, knowingly, and voluntarily entered a guilty plea to the sole Count of the Superseding Information., (2) that his guilty plea be accepted, (3) that he be adjudicated guilty of the offense, and (4) that a sentencing hearing as scheduled by the U.S. District Judge be conducted for a final disposition of this matter.

#### **NOTICE OF RIGHT TO OBJECT**

A party shall serve and file written objections, if any, to this Report and Recommendation with the Honorable Aileen M. Cannon, United States District Judge for the Southern District of Florida, within **FOURTEEN (14) DAYS** of being served with a copy of this Report and Recommendation. Failure to timely file objections shall constitute a waiver of a party's "right to challenge on appeal the

district court's order based on unobjected-to factual and legal conclusions." 11th Cir. R. 3-1 (2016).

**If counsel do not intend to file objections, they shall file a notice advising the District Court within FIVE DAYS of this Report and Recommendation.**

**DONE and RECOMMENDED** in Chambers at West Palm Beach, Palm Beach County, in the Southern District of Florida, this 26th day of April 2023.

A handwritten signature in black ink, appearing to read "Bruce Reinhart", is written above a horizontal line.

BRUCE E. REINHART  
UNITED STATES MAGISTRATE JUDGE